

**STATE PETROLEUM BOARD TO REVIEW CLAIMS
BOARD MEETING MINUTES
SEPTEMBER 9, 2004**

Note: Copies of this recorded meeting can be obtained from the Board meeting secretary, NDEP, 333 West Nye Lane, Room 206, Carson City, Nevada 89706-0851 or by calling (775) 687-9367

CALL TO ORDER

Mr. John Haycock called the meeting to order at 10:00 a.m. The meeting was videoconferenced at the Legislative Counsel Bureau, State Legislative Building, (Room 2134), 401 South Carson Street and the Legislative Counsel Bureau in the Grant Sawyer Building (Room 4406) 555 Washington Street, Las Vegas, Nevada.

BOARD MEMBERS PRESENT

Mr. John Haycock, Ms. Linda Bowman, Ms. Joanne Blystone, Mr. Allen Biaggi, Mr. Mike Miller, Mr. Edgar Roberts

BOARD MEMBERS ABSENT

Mr. Mike Dyzak

STAFF PRESENT

Mr. Gil Cerruti (Supervisor, Petroleum Fund); Ms. Karen Fleming (Recording Secretary, Petroleum Fund); Mr. Mike Cabble (UST Program); Mr. Jim Najima (Bureau Chief, NDEP in Carson City); Ms. Susan Gray (Legal Representative to the Board of the Attorney General's Office, Las Vegas); Ms. Shannon Harbour (Las Vegas, NDEP)

I. APPROVAL OF THE AGENDA

Mr. John Haycock began the meeting by requesting a motion to approve the agenda.

Linda Bowman moved to approve the agenda. Joanne Blystone seconded the motion. The motion carried unanimously.

II. APPROVAL OF THE JUNE 8, 2004 MINUTES

Mr. John Haycock asked if there were any changes to the minutes. There were no changes and the minutes were approved.

Linda Bowman moved to approve the minutes. Joanne Blystone seconded the motion. The motion carried unanimously.

III. STATUS OF THE FUND STATEMENT

Mr. Gil Cerruti reported that this was the first Board meeting held in fiscal year 2005. The balance of the Fund amount carried forward from fiscal year 2004 is \$6.3 million. Mr. Cerruti further stated that invoicing for underground tank registration was just recently started and receipts for the petroleum fee have not yet been tallied. Present liabilities total \$1.5 million, which leaves an available amount of \$4.8 million. For this meeting, the reimbursed amount is a total of \$2 million; therefore, claimants will be paid in full. Ms. Bowman wanted to know if a \$1.1 million dollar amount she noticed was NDEP's overhead for the Board. Mr. Cerruti replied that the \$1.1 million was a subsidy taken out of the Fund to support activities within NDEP. Ms. Bowman wanted to know if the amount was to pay for salaries. Mr. Cerruti replied that Mr. Allen Biaggi would know more about how the money was divided. Mr. Biaggi replied that the

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amount was for salaries and operating costs. Mr. Biaggi stated that the last time he checked the overhead, it was less than five percent of the total revenues generated. There is also travel and training money and some costs involving software and computer systems. Mr. Biaggi further stated the Petroleum Fund operates efficiently with very little overhead. Mr. Jim Najima also addressed the Board reporting that part of the Fund money goes to counties. Recently, there was an amount for \$100,000 paid to Clark County and Washoe County approved by the Legislature. Mr. Najima further stated there has been monetary savings due to Board members and staff not using travel expenses since the Board meetings have been videoconferenced. Mr. Haycock wanted to know about collecting the petroleum fee per gallon. Mr. Cerruti replied the FY 2004 ending balance was \$6.3 million, which is in the mid-dollar range according to the statutory requirements for the fee to be turned on or off. To date, the fee is continuing to be collected and the Department of Motor Vehicles has been notified. Ms. Bowman asked how much was paid from the Fund in FY 2004 for claims. Mr. Cerruti replied approximately \$9.5 million. Ms. Bowman asked how much was collected for the petroleum fee per gallon. Mr. Cerruti replied \$11.5 million, which includes the \$100 per tank fee amounting to \$450,000.

IV. DETERMINATION OF FUND COVERAGE

IV.A. - Resolution to Deny Coverage to McCrosky's "Y" Service, Jct. Hwys 93 & 319, Panaca, Nevada; State Facility #7-000046, Petroleum Fund Case No. 2004000045; Resolution 2004-03

Mr. Cerruti stated that when he completed his presentation, Mr. Steve McCrosky was in attendance and would also like to address the Board.

Mr. Cerruti explained this case was one where the owner applied for coverage for two underground fuel tanks. The coverage has been denied by staff and the owner is appealing staff's denial. The coverage was denied because the tanks in question were permanently closed and filled with either sand or concrete (not sure of tank contents at that time) back in 1991. In addition, the tanks have never been enrolled in the Petroleum Fund (Fund). The Fund does not enroll permanently closed tanks since they no longer meet the definition of a storage tank as defined in NAC 597.10. Mr. Cerruti referred to NAC 597.00 and 597.30 stating that specifically, these regulations state a registered storage tank must be enrolled. Since the two tanks were closed and filled, they did not meet the definition and therefore, could not have been enrolled in the Fund.

Mr. Cerruti directed the Board members to Attachment A in their Board packet regarding the closure of the two tanks from McCrosky's service back in the early 1990's. Mr. Cerruti then referred the Board to Attachment B as further declaration that the tanks were stated as filled with concrete on November 28, 1990. Mr. Cerruti explained that Attachment B was a form used for registration of storage tanks. Mr. Cerruti pointed out on the lower part of the form it states the tanks were filled with concrete. The McCrosky's signed the form. Attachment C is a memo from the McCrosky's stating the tanks were not filled with concrete and is a contradiction therefore. Staff was not sure when the tanks were filled - eventually they did become filled. Mr. Cerruti further explained the reason this case was before the Board was due to the fact (referring to the 1990's) a database called Revelations had been used to generate invoices. The database

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automatically generated an invoice (Attachment D) for the two filled tanks, even though they were permanently closed. The invoice was inadvertently sent to the McCrosky's. The McCrosky's paid the invoice. It was later discovered upon receipt of the money, that the two tanks were closed and ineligible for enrollment. The money was then refunded to the McCrosky's. Mr. Cerruti explained that Attachment E was a fee record showing the payment was refunded. Attachment F was a recent document received from the owners acknowledging that these tanks were permanently closed and filled with a material back in the early 1990's. Mr. Cerruti concluded by stating that Attachment G is a copy of their Petroleum Fund application. Mr. Cerruti stated the Fund has excluded tanks that have been permanently closed from enrollment. Since the two tanks were permanently closed and not enrolled; staff is recommending that the Board uphold staff's denial for Fund coverage.

Mr. Haycock called Mr. Steve McCrosky forward to address the Board. Mr. Steve McCrosky introduced himself mentioning his facility, McCrosky's "Y" Service in Panaca, Nevada. Mr. McCrosky explained to the Board that the situation began back in May when contamination was discovered during a phase I and a phase II assessment. Mr. McCrosky stated that he was directed to claim the two UST's and decided when filling out the application to include the two filled tanks. He mentioned a diesel tank that had been pulled in 1999 which when the soil was tested showed the area around the tank itself to be clean. Mr. McCrosky stated that during a conversation with Mr. Cerruti, he mentioned to Mr. McCrosky most leaks happen in the piping. The diesel tank was enrolled in 1991 and taken out of service in 1998. Mr. McCrosky concluded by stating the test results showed the existing contamination was consistent with diesel fuels.

Mr. Cerruti further stated the CEM on this case has put in writing the contamination is consistent with the two tanks that were closed in 1990.

Mr. Biaggi asked Mr. McCrosky if the phase I and phase II were performed as a result of a potential purchase or transfer of property. Mr. McCrosky replied that he was in the process of demolishing and rebuilding as requested by Wells Fargo. According to notes he was reading, Mr. Biaggi asked Mr. McCrosky if an assessment was **not** done at the time the two tanks were closed or allegedly closed. Mr. McCrosky replied, "right", (No assessment had been done at that time).

Ms. Blystone stated that as a Board member and a public representative, she wanted to ascertain what the Board could do for the applicant with the understanding that the claimant would have paid the enrollment fee if the tanks were eligible. Mr. Cerruti added that he did the inspection on the facility in the early 1990's and the owners at that time were the father and uncle of Steve McCrosky. Mr. Cerruti stated he spoke to the owners at that time about the upcoming regulation requirements for 1998. He also discussed upgrading, proper leak detection and reviewed inventory records along with other records with them. Mr. Cerruti reported this facility was non-compliant - they were not keeping good inventory control records. Correspondence in their files showed that the McCrosky's had been directed to perform a proper tank closure. The file shows they corresponded back stating they did not feel they should perform a proper closure of the tanks because they had records showing the tanks had never leaked. They elected to close the tanks rather than comply with the requirements of upgrading. Ms. Blystone stated that her question regarding what the Board would be able to do for this claimant still stands.

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Ms. Bowman asked Mr. McCrosky if it was his understanding that the two-sanded tanks may not be the source of the contamination he now has to address; and that the piping that may have been the source of the contamination came from a tank covered by the Petroleum Fund. Mr. McCrosky stated that the diesel tank that was covered by the Fund was removed and the sampling in the tank area analyzed clean and he had no idea the contamination could be from the piping. He stated he was directed to try and get coverage for the two sanded UST's. Later, he discovered that the tanks were never enrolled in the Fund. The diesel tank that was enrolled in the Fund from 1991 to 1998 was removed properly. Ms. Bowman asked if he provided closure reports from the removal of the tank to Mr. Cerruti. Mr. McCrosky replied, "yes" to her question. Ms. Bowman asked if there was any indication in the closure reports that the tank looked tight. Mr. McCrosky replied that all the samples were clean. Ms. Bowman asked if that would be consistent with the piping leak. Mr. McCrosky replied, "yes".

Mr. Cerruti asked Mr. McCrosky to explain the incident where someone drove into the station and hit the dispenser causing a problem. Mr. McCrosky stated that he did not remember specifically when the incident happened, but explained that a gentleman drove across the street, hit the supreme pump causing a gasoline spill on the asphalt and at the time there had been snow on the ground. Ms. Bowman wanted to know what year that happened. Mr. McCrosky stated he would have to look back on his records.

Ms. Bowman voiced her concern that Mr. McCrosky did not have a CEM present at this meeting to back up his theory. Ms. Bowman then wanted to know when the piping was removed. Mr. McCrosky stated that the piping is still in the ground. Mr. Cerruti replied that if this piping was the leak source then it still has not been repaired. Ms. Bowman asked if Mr. McCrosky was still selling gas. Mr. McCrosky replied they have above ground tanks with a pipeline running from the back of the property to the front dispensers. Ms. Bowman stated her concern for the piping that is still in the ground. She was also concerned the source of the leak has not been further explored. Ms. Bowman also stated that she felt it was premature to make a decision based on the facts presented at this meeting. Ms. Bowman stated she felt Mr. McCrosky may have a better chance with a CEM attending the next meeting to possibly present other facts of this case as there may be another way to get coverage for the other diesel tank.

Ms. Susan Gray, Legal Counsel, stated that if the leak came from the sanded tanks that were not enrolled there would be no coverage and if the leak came from another source there could be coverage, however, there does not seem to be enough facts to support that theory. Ms. Gray suggested continuing this resolution until another Board meeting to see if more information could be provided. Ms. Bowman agreed that this would be her preference also. Ms. Blystone explained to Mr. McCrosky that if it were proven the leak came from the piping, the Board would consider granting some coverage if possible. It would be in his best interest to return at a future Board meeting with a CEM to answer more of the technical questions. Mr. McCrosky agreed that he would do what was suggested. Mr. Haycock stated that this resolution would be continued at a future Board meeting.

The Board deferred this resolution.

IV.B. - Resolution to Amend Resolution No. 2003-23, Thereby Granting Full Petroleum Fund Coverage to 7-Eleven #22070; 7921 South Las Vegas Blvd., Las Vegas, Nevada; Resolution 2004-04

Mr. Cerruti mentioned that Mr. Bennett Kottler of the Petroleum Fund originally prepared this resolution. This Board previously passed Resolution 2003-03 at the meeting held December 11, 2003. This resolution granted coverage with a 40% reduction to the 7-Eleven site based on the fact that they operated without performing the statistical inventory reconciliation and could not produce the records. Since that resolution was passed, the consultant has found those missing records and submitted them to NDEP staff. As a result of receiving the records, staff is now requesting to grant this 7-Eleven site full Fund coverage. There have been no claims submitted to date so there would be no impact on any claims in the future. This resolution would be paid with a 10 percent deductible and no reduction. Ms. Bowman asked whether the records have been reviewed to be sure they were historical records. Mr. Cerruti replied they were reviewed thoroughly.

Linda Bowman motioned for adoption of this resolution. Joanne Blystone seconded the motion. The motion carried unanimously.

IV.C. - Resolution to Dismiss Selected Petroleum Fund Claim Balances – Resolution 2004-05

Mr. Cerruti stated this is an administrative resolution prepared to accommodate inadequacies in the system not previously corrected. Mr. Cerruti mentioned to the Board two typos that needed to be noted first. On Page 3, Boyd Gaming was misspelled and on page 4, Whittell High School - the case number is 2004000039 is misspelled. Mr. Biaggi also pointed out that Pacific Mart was misspelled. Ms. Bowman mentioned that Whittell High School should be spelled with an extra "l" at the end. Mr. Cerruti notified the Board there would be resolutions in the future similar to this for other active cases.

Joanne Blystone moved for adoption. Linda Bowman seconded the motion. The motion carried unanimously.

IV.D. – Resolution to Designate Rich's Unocal, 810 Cornell Ave., Lovelock, Nevada as a Small Business; Petroleum Fund Case #1999000061 – Resolution 2004-06

Mr. Cerruti mentioned to the Board that Mr. Rich Sorani was present at the meeting to speak to the Board. Mr. Cerruti stated Mr. Sorani has submitted the necessary requested documents and his business fully qualifies as a small business. One stipulation that will impact the Fund is the required deductible for this case will be capped at \$50,000. Ms. Bowman wanted to know if there was another resolution similar to this from the past. Mr. Cerruti stated that there was one other and possibly two. Mr. Haycock stated that he would like to schedule to have a discussion about this matter. His concern was the definition of a small business, which in this case relates to a retail service station defined by gross annual receipts. In one year the revenue could change based on the volatile price of the product being sold. The definition for a small business might qualify one year and not qualify when the price of the products sold changes. Ms. Bowman noted that the resolution refers to the Administrative Code. Mr. Haycock wanted to know if, as a Board, there could be an exception to that. Ms. Bowman stated that if it is defined by an NAC

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that it would have to be redefined by the Legislature. Ms. Gray stated in NRS 590.890 section 6, it states that a small business is a business which receives less than \$500,000 in gross annual receipts from the site where the tank is located. Mr. Biaggi asked to have Mr. Rich Sorani speak to the Board since he came a long way to attend. Mr. Richard Sorani introduced himself and briefly stated he was satisfied with the resolution.

Linda Bowman moved to approve the resolution. Mike Miller seconded the motion. The motion carried unanimously.

IV.E. – Resolution to Deny Additional Petroleum Fund Coverage for 7-Eleven #27361, 2910 South Maryland Parkway, Las Vegas, Petroleum Fund Case No. 1998000053; Resolution 2004-11

Mr. Cerruti began by stating this was a case where the owner of 7-Eleven failed to file a claim within the 12-month time frame from the date of leak discovery as required by NAC 590.780. NDEP staff has determined that the leak was discovered on August 12, 2002 and the claim was not filed until September 6, 2003. Resolution 96-003 approved by this Board on February 29, 1996, authorizes the administrator to waive the 12-month rule and grant Petroleum Fund coverage in cases where there is good cause for delay. One of the conditions for good cause states the owner must remain in full compliance with the regulations. In this case the owner has not remained in full compliance with the regulations. The owner did not report the release within 24 hours and continued to operate the three (3) leaking tank systems for 11 months, therefore contributing further to the plume. This site had already been granted coverage in 1998 for a release and there has been ongoing cleanup. A total of \$86,000 has been reimbursed to date.

7-Eleven has applied for additional coverage since the 3 leaking tank systems were discovered. Mr. Cerruti summarized that since 7-Eleven fell out of the 12-month rule it could not be waived due to noncompliance as per Resolution 96-003. There were active monitoring wells that evidenced the MTBE was increasing. Between August 1st and 12th a tracer test was performed on the 3 UST's which failed. The tracer was discovered all in one area. The tanks were leaking into a common conduit which was leaking at one point on the site. Mr. Cerruti stated that 7-Eleven did not want to accept the results of the tracer test and they continued to operate. They then had a stage II vapor recovery system integrity test, which passed. 7-Eleven continued to operate 5 or 6 months, until February 2003 when they contracted to have a petroscope examination of the tanks. Mr. Cerruti mentioned there were pictures of that petroscope test included in the Board packets. (Pictures were actually of tanks after removal).

Between June 2002 and May 2003, 7-Eleven submitted their automatic tank gauging results, which they passed. 7-Eleven already knew there was a leak due to the earlier tests performed. On May 22 NDEP notified 7-Eleven that because the MTBE concentrations were increasing in the monitoring wells, the processing of their existing Fund claim was going to be suspended until the source of the MTBE increase was found. Mr. Cerruti stated the 7-Eleven representative present at the meeting will say that one of the reasons a claim was not submitted within the 12-month time frame was because they were told not to submit any claims. That is not true, NDEP had told them they were not going to process any more claims until the MTBE increase had been identified.

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On July 17, 2003 the UST systems were emptied and taken out of service 11 months after the failed tracer test. NDEP has concluded based on the facts of this case that 7-Eleven was contributing to an ongoing cleanup. Staff is recommending that the Board deny 7-Eleven the additional \$3 million coverage and further, that the board direct staff to investigate the contribution this continuous operation for 11 months might have added to the ongoing cleanup and make recommendation as appropriate to modify the ongoing Petroleum Fund coverage for the existing cleanup.

Mr. Haycock called Mr. Matthew Grandjean forward to speak on behalf of 7-Eleven. Mr. Matthew Grandjean of Secor International, introduced himself as the Certified Environmental Manager (CEM) for the 7-Eleven site. He stated that he was not aware of any pictures from the petroscope investigation that Mr. Cerruti pointed out to the Board earlier in his presentation. Mr. Grandjean stated the only pictures he knew of were from the tank pull not from the petroscope investigation.

Mr. Grandjean also mentioned Mr. Cerruti's presentation regarding the tracer tests. He stated that a tracer test is done by doing shallow and deeper soil probes. The results of the tracer tests, when Secor had received them, were not immediately evident. Mr. Grandjean stated the result report was confusing and a few months had gone by before Secor was able to get definitive results and an interpretation of the data from the persons who performed the tracer tests. Ms. Bowman asked if Mr. Grandjean was referring to the August 22, 2002 tracer tests. She also wanted to know what in the test results was so ambiguous to him. Mr. Grandjean stated he was not an expert at reading the results and it had been a few months before Secor could get an interpretation of those results. The persons who performed the tests were unable to say for sure whether the tanks had actually leaked. They speculated for weeks that it was a vapor release which was more commonly found with tracer tests. Ms. Bowman wanted to know whether he advised 7-Eleven to keep operating the tanks. Mr. Grandjean stated he did not advise 7-Eleven to keep operating the tanks and had been advising them as to the problem due to the increase in the MTBE concentrations in the monitoring wells.

Mr. Grandjean verified that the Petroleum Fund staff did inform them to not submit any more claims until more could be determined regarding the second release. Mr. Grandjean referred to a letter he received from NDEP stating the second application they submitted would be considered an initial claim for this site. There does seem to be a discrepancy as to when the release actually should have been reported in terms of when the tracer tests were received and when the second application for coverage was submitted. Mr. Biaggi stated the photos in his packet are not from a petroscope evaluation, however, in the petroscope log dated February 14, 2003 it does indicate these tanks were in very poor condition and there was potential for tank failures. Ms. Bowman stated she has never been a fan of the 12-month rule and extended sympathy for the Secor representative who was told not to submit claims given the problems that existed. She further stated that considering the compliance issues in this case she would be inclined to take a deduction off of any reimbursement allowed. Mr. Haycock wanted to know how much the lack of compliance has added to the plume and the cost of cleanup. Mr. Cerruti stated he could not answer that and with all of the violations considered, staff recommends a 40 percent reduction for each. The maximum staff is able to recommend to the Board is a 40 percent reduction, which

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does not take into account the increased cost of the original cleanup. Mr. Biaggi moved for adoption of the staff's recommendation for denial for additional Fund coverage to the 7-Eleven facility. Ms. Blystone seconded the motion. Mr. Haycock asked for any further discussion of the motion. Ms. Bowman stated she was opposed. A roll call of the vote was lead by Mr. Cerruti. All those in favor were asked to state their name: Edgar Roberts, Mike Miller, Joanne Blystone, Allen Biaggi and Mr. Haycock stated they were in favor. Ms. Bowman stated she was opposed. The motion to approve staff's denial for additional Fund coverage was passed.

Allen Biaggi moved for adoption of denial. Joanne Blystone seconded the motion. Ms. Linda Bowman opposed. A roll call verified the motion carried by majority vote.

Mr. Cerruti requested a 5-minute break. Mr. Haycock complied with his request for a break.

After the break, Mr. Cerruti mentioned to the Chairman that the "non-consent" item on the agenda was changed to a "consent" item. All items on the agenda are consent items.

V. EQUIPMENT OWNER TRANSFER

Mr. Haycock requested a vote for all equipment owner transfers, Item V.A.; V.B; V.C.; V.D.; V.E; V.F. and V.G.:

Joanne Blystone moved for adoption. Mike Miller seconded the motion. The motion carried unanimously.

VI. REVIEW OF CLEANUP CLAIMS

Ms. Blystone moved for adoption of Heating Oil, Items 1-3; Above Ground Storage Tanks, Items 1-3; New Cases, Items 1-4; Old Cases, Items 1-106. Mr. John Haycock stated that he abstained from voting for Above Ground Storage Tanks Items 1 and 2 for Haycock Petroleum. Ms. Bowman abstained from voting for Allied Washoe, Allied Petroleum, Avis Rent-A-Car and Allstate Rent-A-Car.

Joanne Blystone moved for adoption of all consent items. Mike Miller seconded the motion. The motion carried.

VII. EXECUTIVE SUMMARY REPORT

Mr. Cerruti reported for the new fiscal year 2005, 3 new cases have been received. Since the inception of the program 1218 cases have been evaluated. There are currently 239 active cases. A total of 822 cases have been closed. A total of 93 cases have been denied coverage and 41 cases have expired due to the fact that within 12 months of the date of discharge discovery, they failed to file a claim. A total of 23 cases are currently in pending status either awaiting submittal of additional information or documentation. To date the total amount paid for cleanups is \$107 million.

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Presently, NDEP is in the process of distributing a draft copy of regulations for Above Ground Marina Tanks. So far three comments have been received. One of the comments was from a regulator, who agreed with the requirements. Another comment was received from a tank installer in the Reno area who stated the requirements are not strict enough in the regulations regarding dock and land connections. He felt the hoses and connections should meet the Fire Department requirements and that the dock connections should be UV and weather resistant. Mr. Cerruti stated that the installer had seen incidents where docks break away from the land causing problems. Mr. Cerruti mentioned receiving this type of comment, even though the proposed regulations request for a shut-off valve to be installed on both sides of the dock/land connections. The State has adopted, as of July 3rd, the International Fire Code and is incorporating them into the Above Ground Marina Tank regulations. There have been copies distributed to all marina tank owners, all Board members, and to members of the regulated community. Mr. Cerruti asked if the Board had any questions. Ms. Blystone asked if there was a list of marina tank owners or is another agency responsible for that. Mr. Cerruti replied that the only list NDEP has is for facilities that have their above ground tank(s) enrolled in the Petroleum Fund. There are eight marina tanks owner sites that NDEP knows of. Mr. Biaggi suggested looking into a Marina Owners Association as a good place to get more information.

Mr. Cerruti stated that the ending balance from the last fiscal year was \$6.3 million which left the tank fee intact. The tank enrollment invoices were sent out about three weeks ago. There were 1400 facilities invoiced and so far 444 have paid their fees. The fees will be due until the end of September 2004.

Ms. Bowman mentioned a good point regarding having social security numbers blocked out on any claimant documentation distributed for the packets and handouts. Mr. Cerruti thanked her for pointing that out and notified her that staff will consider that for similar documents in the future.

VIII. PUBLIC FORUM

Mr. Rich Sorani addressed the Board commending them on all the hard work in managing the Petroleum Fund. He stated that the purpose of his visit was to urge the Board to return the Petroleum Fund participation rules back to the way they were at the inception of the Fund. He stated that he does not feel the present rules treat businesses of varying sizes fairly. The unending provision of co-pay is unfair to small business with the rising costs of remediation. He urged the Board to consider returning to a cap on the co-pay. Mr. Sorani stated to stay in the petroleum business was a major learning experience and he had been tempted to just pull the tanks and get out of the petroleum business. His expenses had been capped and thought he had enough money to conform by pulling out the tanks. Over the last 5 years, the \$10,000 cap in place at that time and over time has had an adverse effect on his business. Mr. Sorani mentioned that he feels the co-pay has the ability to bankrupt any business, especially small rural businesses which can affect the quality of cleanups. Mr. Sorani concluded by stating he wanted to know how to get the Legislature to start changing these regulations.

Mr. Biaggi replied by stating to Mr. Sorani, that he presented a compelling case and was sympathetic to this issue. Mr. Biaggi recalled that the co-pay regulation was put into place by the Legislature in 1995. The reason this was done was to allow an incentive for the owner and operator of a facility to have a stake in the cleanup in order to watch the charges carefully. There

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was a recognition by the Legislature for small businesses to have capped co-pays. Mr. Biaggi encouraged Mr. Sorani to contact a legislator in his county and also to contact Mr. Peter Krueger of the Petroleum Marketers Association. Mr. Sorani thanked the Board for taking the time to hear what he had to say. Mr. Haycock recommended once again for Mr. Sorani to contact Mr. Peter Krueger, as he would be the person who would be helpful with this issue.

Mr. Biaggi mentioned that this was the last Board meeting he would be attending as he has accepted a new position with the State. He commended the Board on their consistency, competency and compassion toward the regulated community. As he heard Mr. Cerruti mention this Board has given a total of \$107 million dollars; he could not think of any other Board able to give away so much money all for the good of keeping the environment clean. This Board has also been responsible for protecting the economy of Nevada as demonstrated in the small business case that was just heard. He mentioned by the next Board meeting, there would be a new administrator taking his place. Mr. Haycock stated to Mr. Biaggi he would be missed and wished him the best of luck in his new position.

IX. CONFIRMATION OF NEXT BOARD MEETING

Mr. Cerruti notified the Board the next meeting was scheduled for December 9, 2004. It was decided that the next meeting would be December 9, 2004.

X. ADJOURNMENT

There being no further business, the meeting was adjourned at 11:24 a.m.